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REMARKS

This is a full and timely response to the non-final Official Action mailed January 28, 2008, which imposed an Election of Species Requirement in the present application. Accordingly, Applicant makes the following election and requests that examination of the elected claims on their merits be promptly conducted in light of the following remarks.

In the outstanding Office Action, the Office alleges that the present application contains claims to the following independent and patentably distinct species.

Species 1: Fig. 3;

Species 2: Figs. 4a and 4b;

Species 3: Figs. 5a and 5b;

Species 4: Fig. 6;

Species 5: Fig. 7;

Species 6: Fig. 8;

Species 7: Fig. 9a;

Species 8: Fig. 9b; and

Species 9: Fig. 10.

Applicant traverses this election of species requirement as clearly improper for at least the following reasons. The Office Action alleges, without any supporting explanation, that the species recite mutually exclusive characteristics. (Action, p. 2). This is incorrect.

For example, Fig. 8 illustrates a high speed shutter. According to the application, "any of the 3D image acquisition systems may include a high speed shutter (820) optically coupled to

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the video projector (810) as shown in Figure 8.” (Emphasis added). Thus, it is clear that any of the various systems described may include the subject matter of Fig. 8. Therefore, the subject matter of Fig. 8 is not mutually exclusive of that illustrated in the other figures. (MPEP § 806.04(f)).

Consequently, the restriction of the subject matter of Fig. 8 as separate and mutually exclusive of the other figures is clearly incorrect. For at least this reason, the improper election of species should be reconsidered and withdrawn, at least as to Fig. 8.

As required, Applicant elects Species 3, Figs. 5a and 5b, for immediate prosecution. The claims that read on the elected species are 32-39 and 60-64. All other original claims are labeled as “withdrawn” herein.

Applicant does not disclaim the subject matter of any withdrawn claim and reserves the right to file any number of continuation or divisional applications to the withdrawn claims or to any other subject matter described in the present application.

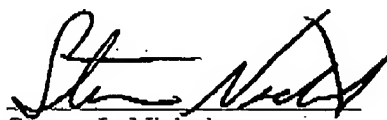
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An examination of claims 32-39 and 60-64 on their merits is now respectfully requested. If the Examiner has any comments or suggestions which could place this application in even better form, the Examiner is requested to telephone the undersigned attorney at the number listed below.

Respectfully submitted,

DATE: February 28, 2008



Steven L. Nichols

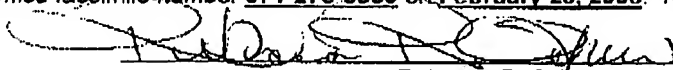
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I hereby certify that this correspondence is being transmitted to the Patent and Trademark Office facsimile number 571-273-8300 on February 28, 2008. Number of Pages: 23



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